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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

IN THE MATTER OF:
Frontier Hard Chrome Site

Docket No. CERCLA-10-2003-0009

Under the Authority of the
Comprehensive Environmental
Response, Compensation, and
Liability Act of 1980,
42 U.S.C. § 9601, *et seq.*, as amended

AGREEMENT AND
COVENANT NOT TO SUE
Kelly Development LLC

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I. INTRODUCTION

1. This Agreement and Covenant Not to Sue (Agreement) is made and entered into
by and between the United States on behalf of the Environmental Protection Agency (EPA)
and Kelly Development LLC (collectively the Parties).



1 2. This Agreement is entered into pursuant to the Comprehensive Environmental
2 Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C.
3 § 9601, *et seq.*, and the authority of the Attorney General of the United States to compromise
4 and settle claims of the United States.

5 3. This Agreement concerns the Frontier Hard Chrome Site (Site) in Vancouver,
6 Washington. The Site is the former location of a chrome-plating operation. Chromium is
7 found in the soil and in the groundwater at the Frontier Site as a result of the chrome-plating
8 operations.

9 4. The Settling Respondent, Kelly Development LLC (Kelly), is a limited liability
10 company registered in Washington. Kelly's headquarters are located at 200 Grand Boulevard,
11 Vancouver, WA 98661. Kelly intends to purchase a portion of the Frontier Hard Chrome
12 Property. Kelly also intends to purchase property adjacent to the Frontier Hard Chrome
13 Property that is the former site of the Richardson Metal Works facility. Kelly intends to
14 develop the Property for light industrial uses, offices, and storage space.

15 5. The Parties agree to undertake all actions required by the terms and conditions of
16 this Agreement. The purpose of this Agreement is to settle and resolve, subject to
17 reservations and limitations contained in Sections IX, X, XI, and XII, the potential liability of
18 the Settling Respondent under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and
19 9607, and under Section 7003 of the Resource Conservation and Recovery Act (RCRA),
20 42 U.S.C. § 6973, for the Existing Contamination at the Property that would otherwise result
21 from Settling Respondent becoming the owner or operator of the Site.

22 6. The Parties agree that the Settling Respondent's entry into this Agreement and the
23 actions undertaken by the Settling Respondent in accordance with the Agreement do not
24 constitute an admission of any liability by the Settling Respondent.

25 7. The resolution of this potential liability in exchange for provision by the Settling
26 Respondent to EPA of a substantial benefit is in the public interest.

II. DEFINITIONS

8. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations, including any amendments thereto.

a. "Closing Costs" shall mean the expenses reasonably incurred and actually paid by (b) (6) the Estate of (b) (6) and the (b) (6) Family Trust associated with the sale of the Frontier Hard Chrome Property, including state or local taxes owed as a result of the sale of the Frontier Hard Chrome Property.

b. "DOJ" shall mean the United States Department of Justice and any successor departments or agencies of the United States.

c. "EFT" shall mean Fedwire Electronic Funds Transfer.

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

e. "Existing Contamination" shall mean

i) any hazardous substances, pollutants, or contaminants present or existing on or under the Property as of the effective date of this Agreement;

ii) any hazardous substances, pollutants, or contaminants that migrated from the Property prior to the effective date of this Agreement; and

iii) any hazardous substances, pollutants, or contaminants presently at the Site that migrate onto or under or from the Property after the effective date of this Agreement.

f. "Frontier Hard Chrome Property" shall mean the portion of the Site owned by Walter Neth and the Estate of Otto Neth. The Frontier Hard Chrome Property is located at 113 Y Street in Vancouver, Washington.

g. "Institutional Controls" shall mean the restrictions identified in Exhibit 1 of this Agreement.

h. "Paragraph" shall mean a portion of this Agreement identified by an arabic

numeral or a lower case letter.

i. "Parties" shall mean the United States on behalf of EPA and the Settling Respondent.

j. "Property" shall mean that portion of the Site purchased by the Settling Respondent, comprising approximately 2.6 acres, and including the portion of the Frontier Hard Chrome Property that Kelly purchases and the Richardson Metal Works facility.

k. "Settling Respondent" and "Kelly" shall mean Kelly Development LLC and its affiliates Kelly General LLC, Kelly Electric Group LLC, JH Kelly LLC, JH Kelly Holdings LLC, JHK LLC, and JH Kelly Investments Inc.

l. "Site" shall mean the Frontier Hard Chrome Site, located at 113 Y Street in Vancouver, Washington, and depicted generally on the map attached as Exhibit 2. The Site shall include the Property and all areas to which hazardous substances, pollutants, or contaminants have come to be located.

m. "United States" shall mean the United States of America, its departments, agencies, and instrumentalities.

III. STATEMENT OF FACTS

9. From approximately 1958 to 1983, chromium-plating operations were conducted at the Frontier Hard Chrome facility. This facility is located at 113 Y Street in Vancouver, Washington, and comprises approximately 70,000 square feet of land. Chromium contamination is present in the soil and in the groundwater at this facility.

10. Immediately south of the Frontier Hard Chrome facility, at 109 Y Street in Vancouver, Washington, is a parcel known as the Richardson Metal Works facility. This facility comprises approximately 16,800 square feet of land. This parcel is currently part of the Site because of chromium contamination present in the groundwater beneath this facility.

11. The chromium found at the Site is a hazardous substance within the meaning of CERCLA. EPA has determined that there has been a release and threatened release of this

1 hazardous substance. The Site was placed on the National Priorities List on September 8,
2 1983, 48 *Fed. Reg.* 40658.

3 12. Settling Respondent represents, and for the purposes of this Agreement EPA
4 relies on those representations, that Settling Respondent has had no prior involvement with
5 the Property or the Site.

7 IV. PAYMENT

8 13. In consideration of and in exchange for the United States' Covenant Not to Sue
9 and Waiver of Lien in Section IX herein, Settling Respondent agrees to pay into escrow or
10 into a closing attorney's trust account, and direct the escrow agent or the closing attorney to
11 (1) pay \$30,000 in the form of a certified or cashier's check made payable to the Frontier Hard
12 Chrome Environmental Trust and mail the check to Daniel J. Silver, Trustee, 421 South
13 Capitol, Suite 303, Olympia, Washington 98501; and (2) pay the Frontier Hard Chrome
14 Special Account within the EPA Hazardous Substance Superfund \$180,000 less 87.5% of the
15 Closing Costs on or before the closing date of the sale of the Frontier Hard Chrome Property
16 in accordance with the payment instructions in this Paragraph. The Settling Respondent shall
17 direct the escrow agent or closing attorney to make the payment to the Frontier Hard Chrome
18 Special Account within the EPA Hazardous Substance Superfund by EFT. A wire transfer
19 transaction shall include the following: 1) Account Title: *EPA Superfund*; 2) Account Code:
20 *9109109*; 3) Bank Code: *043000261*, 4) Lockbox: *360903M*. The description field shall
21 include the following: a) *Pay to the order of EPA Hazardous Substance Superfund*; b)
22 Settling Respondent's name and address; c) *Frontier Hard Chrome Superfund Site, Site ID*
23 *1027*; d) the docket number of this Agreement. Within two business days after any payments
24 are mailed or electronically transmitted to the Frontier Hard Chrome Special Account within
25 the EPA Hazardous Substance Superfund or the Frontier Hard Chrome Environmental Trust, a
26 copy of all checks, transmittal letters, and all documents related to any EFT shall be sent to the
27 representatives of the United States listed in Section XVI (Notices and Submissions) and to

1 EPA Region 10 Financial Management Officer, U.S. Environmental Protection Agency, 1200
2 Sixth Avenue, OMP-146, Seattle, WA 98101. EPA shall either retain and use funds received
3 from, or on behalf of, Settling Respondent and deposited into the Frontier Hard Chrome
4 Special Account to conduct or finance response actions at or in connection with the Site, or
5 transfer all or any portion of such funds to the EPA Hazardous Substance Superfund.
6

7 V. INSTITUTIONAL CONTROLS

8 14. In further consideration of and in exchange for the United States' Covenant Not
9 to Sue and Waiver of Lien in Section IX herein, Settling Respondent agrees to comply with
10 the Institutional Controls described in Exhibit I to this Agreement.
11

12 VI. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

13 15. Commencing upon the date that it acquires title to the Property, Settling
14 Respondent agrees to provide to EPA, its authorized officers, employees, representatives, and
15 all other persons performing response actions under EPA oversight, an irrevocable right of
16 access at all reasonable times to the Property and to any other property to which access is
17 required for the implementation of response actions at the Site, to the extent access to such
18 other property is controlled by the Settling Respondent, for the purposes of performing and
19 overseeing response actions at the Site under federal law. EPA agrees to provide reasonable
20 notice to the Settling Respondent of the timing of response actions to be undertaken at the
21 Property. Notwithstanding any provision of this Agreement, EPA retains all of its access
22 authorities and rights, including enforcement authorities related thereto, under CERCLA, the
23 Solid Waste Disposal Act, as amended by RCRA, 42 U.S.C. § 6901, *et seq.*, and any other
24 applicable statute or regulation, including any amendments thereto.

25 16. With respect to any property owned or controlled by the Settling Respondent that
26 is located within the Site, within 15 days after the effective date of this Agreement or the date
27 of acquisition of any Property, whichever date is later, the Settling Respondent shall submit to
28

1 EPA for review and approval a notice to be filed with the Recorder's Office, Clark County,
2 State of Washington, which shall provide notice to all successors-in-title that the Property is
3 part of the Site, that EPA selected a remedy for the Site on August 30, 2001, and that the
4 Property is subject to this Agreement, including Institutional Controls. The Settling
5 Respondent shall record the notice within 10 days of EPA's approval of the notice. The
6 Settling Respondent shall provide EPA with a certified copy of the recorded notice within ten
7 days of recording such notice.

8 17. The Settling Respondent shall ensure that assignees, successors in interest,
9 lessees, and sublessees of the Property shall provide the same access and cooperation,
10 including compliance with Institutional Controls. The Settling Respondent shall ensure that a
11 copy of this Agreement is provided to any current lessee or sublessee on the Property as of the
12 effective date of this Agreement and shall ensure that any subsequent leases, subleases,
13 assignments, or transfers of the Property or an interest in the Property are consistent with this
14 Section, Section V (Institutional Controls), and Section XII (Parties Bound/Transfer of
15 Covenant) of the Agreement.

16 17 **VII. DUE CARE/COOPERATION**

18 18. Settling Respondent shall exercise due care at the Site with respect to the Existing.
19 Contamination and shall comply with all applicable local, state, and federal laws and
20 regulations. Settling Respondent recognizes that the implementation of response actions at
21 the Site may interfere with Settling Respondent's use of the Property and may require closure
22 of its operations or a part thereof. Settling Respondent agrees to cooperate fully with EPA in
23 the implementation of response actions at the Site and further agrees not to interfere with such
24 response actions. EPA agrees, consistent with its responsibilities under applicable law, to use
25 reasonable efforts to minimize any interference with Settling Respondent's operations by such
26 entry and response. In the event Settling Respondent becomes aware of any action or
27 occurrence which causes or threatens a release of hazardous substances, pollutants, or

1 contaminants at or from the Site that constitutes an emergency situation or may present an
2 immediate threat to public health or welfare or the environment, Settling Respondent shall
3 immediately take all appropriate action to prevent, abate, or minimize such release or threat of
4 release, and shall, in addition to complying with any applicable notification requirements
5 under Section 103 of CERCLA, 42 U.S.C. §9603, or any other law, immediately notify EPA
6 of such release or threatened release.

8 **VIII. CERTIFICATION**

9 19. By entering into this Agreement, Settling Respondent certifies that to the best of
10 its knowledge and belief it has fully and accurately disclosed to EPA all information known to
11 Settling Respondent and all information in the possession or control of its officers, directors,
12 employees, contractors, and agents that relates in any way to any Existing Contamination or
13 any past or potential future release of hazardous substances, pollutants or contaminants at or
14 from the Site and to its qualification for this Agreement. Settling Respondent also certifies
15 that to the best of its knowledge and belief it has not caused or contributed to a release or
16 threat of release of hazardous substances or pollutants or contaminants at the Site. If the
17 United States determines that information provided by Settling Respondent is not materially
18 accurate and complete, the Agreement, within the sole discretion of the United States, shall be
19 null and void and the United States reserves all rights it may have.

21 **IX. UNITED STATES' COVENANT NOT TO SUE AND WAIVER OF LIEN**

22 20. Subject to the Reservation of Rights in Section X of this Agreement, upon
23 payment of the amount specified in Section IV (Payment) of this Agreement, the United States
24 covenants not to sue or take any other civil or administrative action against Settling
25 Respondent for any and all civil liability for injunctive relief or reimbursement of response
26 costs pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a) or
27 Section 7003 of RCRA, 42 U.S.C. § 6973, with respect to the Existing Contamination.

1 Subject to the Reservation of Rights in Section X of this Agreement, upon payment of the
2 amount specified in Section IV (Payment) of this Agreement, EPA agrees to waive any lien(s)
3 it may have on the Property under Section 107(r) of CERCLA, 42 U.S.C. §9607(r), as a result
4 of response actions conducted by EPA at the Property.
5

6 **X. RESERVATION OF RIGHTS**

7 21. The covenant not to sue set forth in Section IX above does not pertain to any
8 matters other than those expressly specified in Section IX (United States' Covenant Not to Sue
9 and Waiver of Lien). The United States reserves and the Agreement is without prejudice to
10 all rights against Settling Respondent with respect to all other matters, including but not
11 limited to, the following:

12 a. claims based on a failure by Settling Respondent to meet a requirement of
13 this Agreement, including but not limited to Section IV (Payment), Section V (Institutional
14 Controls), Section VI (Access/Notice to Successors in Interest), Section VII (Due
15 Care/Cooperation), and Section XV (Payment of Costs);

16 b. any liability resulting from past or future releases of hazardous substances,
17 pollutants, or contaminants, at or from the Site caused or contributed to by Settling
18 Respondent, its successors, assignees, lessees, or sublessees;

19 c. any liability resulting from exacerbation by Settling Respondent, its
20 successors, assignees, lessees, or sublessees, of Existing Contamination;

21 d. any liability resulting from the release or threat of release of hazardous
22 substances, pollutants, or contaminants, at the Site after the effective date of this Agreement,
23 not within the definition of Existing Contamination;

24 e. criminal liability;

25 f. liability for damages for injury to, destruction of, or loss of natural resources,
26 and for the costs of any natural resource damage assessment incurred by federal agencies other
27 than EPA; and
28

g. liability for violations of local, state, or federal law or regulations.

22. With respect to any claim or cause of action asserted by the United States, Settling Respondent shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Existing Contamination.

23. Nothing in this Agreement is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States may have against any person, firm, corporation, or other entity not a party to this Agreement.

24. Nothing in this Agreement is intended to limit the right of EPA to undertake future response actions at the Site or to seek to compel parties other than Settling Respondent to perform or pay for response actions at the Site. Nothing in this Agreement shall in any way restrict or limit the nature or scope of response actions which may be taken or be required by EPA in exercising its authority under federal law. Settling Respondent acknowledges that it is purchasing Property where response actions may be required.

XI. SETTLING RESPONDENT'S COVENANT NOT TO SUE

25. In consideration of the United States' Covenant Not To Sue and Waiver of Lien in Section IX of this Agreement, Settling Respondent hereby covenants not to sue and not to assert any claims or causes of action against the United States, its authorized officers, employees, or representatives with respect to the Site or this Agreement, including but not limited to any direct or indirect claims for reimbursement from the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507, through CERCLA Sections 106(b)(2), 111, 112, 113, or any other provision of law, any claim against the United States, including any department, agency, or instrumentality of the United States under CERCLA Sections 107 or 113 related to the Site, or any claims arising out of response activities at the Site, including claims based on EPA's oversight of such activities or approval of plans for such activities.

1 26. Settling Respondent reserves, and this Agreement is without prejudice to, actions
2 against the United States based on negligent actions taken directly by the United States, not
3 including oversight or approval of Settling Respondent's plans or activities, that are brought
4 pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign
5 immunity is found in a statute other than CERCLA or RCRA. Nothing herein shall be
6 deemed to constitute preauthorization of a claim within the meaning of Section 111 of
7 CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

8
9 **XII. PARTIES BOUND/TRANSFER OF COVENANT**

10 27. This Agreement shall apply to and be binding upon the United States and shall
11 apply to and be binding upon Settling Respondent, its officers, directors, and employees. The
12 United States' Covenant Not to Sue and Waiver of Lien in Section IX and Contribution
13 Protection in Section XIX shall apply to Settling Respondent's officers, directors, or
14 employees, to the extent that the alleged liability of the officer, director, or employee is based
15 on its status and in its capacity as an officer, director, or employee of Settling Respondent, and
16 not to the extent that the alleged liability arose independently of the alleged liability of the
17 Settling Respondent. Each signatory of a Party to this Agreement represents that he or she is
18 fully authorized to enter into the terms and conditions of this Agreement and to legally bind
19 such Party.

20 28. Notwithstanding any other provisions of this Agreement, all of the rights,
21 benefits, and obligations conferred upon Settling Respondent under this Agreement may be
22 assigned or transferred to any person with the prior written consent of EPA in its sole
23 discretion.

24 29. Settling Respondent agrees to pay the reasonable costs incurred by EPA to review
25 any subsequent requests for consent to assign or transfer the benefits conferred by this
26 Agreement.

27 30. In the event of an assignment or transfer of the Property or an assignment or
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1 transfer of an interest in the Property, the assignor or transferor shall continue to be bound by
2 all the terms and conditions, and subject to all the benefits, of this Agreement except as EPA
3 and the assignor or transferor agree otherwise and modify this Agreement, in writing,
4 accordingly. Moreover, prior to or simultaneous with any assignment or transfer of the
5 Property, the assignee or transferee must consent in writing to be bound by the terms of this
6 Agreement including but not limited to the certification requirement in Section VIII of this
7 Agreement and compliance with Institutional Controls in Section V of this Agreement in
8 order for the Covenant Not to Sue and Waiver of Lien in Section IX to be available to that
9 party. The Covenant Not To Sue and Waiver of Lien in Section IX shall not be effective with
10 respect to any assignees or transferees who fail to provide such written consent to EPA.
11

12 **XIII. DISCLAIMER**

13 31. This Agreement in no way constitutes a finding by EPA as to the risks to human
14 health and the environment that may be posed by contamination at the Property or the Site nor
15 constitutes any representation by EPA that the Property or the Site is fit for any particular
16 purpose.
17

18 **XIV. DOCUMENT RETENTION**

19 32. The Settling Respondent agrees to retain and make available to EPA all business
20 and operating records, contracts, Site studies and investigations, and documents relating to the
21 Property, for at least ten years, following the effective date of this Agreement unless otherwise
22 agreed to in writing by the Parties. At the end of ten years, Settling Respondent shall notify
23 EPA of the location of such documents and shall provide EPA with an opportunity to copy
24 any documents at the expense of EPA.
25

26 **XV. PAYMENT OF COSTS**

27 33. If Settling Respondent fails to comply with the terms of this Agreement,
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1 including, but not limited to, the provisions of Section IV (Payment), Section V (Institutional
2 Controls), Section VI (Access/Notice to Successors in Interest), and Section VII (Due
3 Care/Cooperation) of this Agreement, it shall be liable for all litigation and other enforcement
4 costs incurred by the United States to enforce this Agreement or otherwise obtain compliance.

6 **XVI. NOTICES AND SUBMISSIONS**

7 34. Whenever, under the terms of this Agreement, written notice is required to be
8 given or a document is required to be sent by one Party to another, it shall be directed to the
9 individuals at the addresses specified below, unless those individuals or their successors give
10 notice of a change to the other Parties in writing. All notices and submissions shall be
11 considered effective upon receipt, unless otherwise provided.

12 As to the United States:

13 Sean Sheldrake, Project Manager
14 EPA Region 10
15 1200 Sixth Ave, ECL-115
Seattle, WA 98101
206-553-2782

Jennifer Byrne, Asst. Regional Counsel
EPA Region 10
1200 Sixth Ave, ORC-158
Seattle, WA 98101
206-553-0050

16 As to Kelly Development LLC:

17 Mark Fleischauer, Vice President
18 Kelly Development LLC
19 200 Grand Blvd
Vancouver, WA 98661
360-759-3307

21 **XVII. EFFECTIVE DATE**

22 35. The effective date of this Agreement shall be the date upon which EPA issues
23 written notice to Settling Respondent that EPA has fully executed the Agreement after review
24 of and any response to any public comment received pursuant to Paragraph 42.

26 **XVIII. TERMINATION**

27 36. If any Party believes that any or all of the obligations under Section VI

1 (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with
2 the requirements of the Agreement, that Party may request in writing that the other Party agree
3 to terminate the provision(s) establishing such obligations; provided, however, that the
4 provision(s) in question shall continue in force unless and until the party requesting such
5 termination receives written agreement from the other party to terminate such provision(s).
6

7 **XIX. CONTRIBUTION PROTECTION**

8 37. With regard to claims for contribution against Settling Respondent, the Parties
9 hereto agree that Settling Respondent is entitled to protection from contribution actions or
10 claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), for matters
11 addressed in this Agreement. The matters addressed in this Agreement are all response
12 actions taken or to be taken and response costs incurred or to be incurred by the United States
13 or any other person for the Site with respect to the Existing Contamination.

14 38. Settling Respondent agrees that with respect to any suit or claim for contribution
15 brought by it for matters related to this Agreement it will notify the United States in writing
16 no later than sixty days prior to the initiation of such suit or claim.

17 39. The Settling Respondent also agrees that with respect to any suit or claim for
18 contribution brought against it for matters related to this Agreement it will notify in writing
19 the United States within ten days of service of the complaint on Settling Respondent.
20

21 **XX. EXHIBITS**

22 40. Exhibit 1 is the description of the Institutional Controls to which Settling
23 Respondent is subject.

24 41. Exhibit 2 is the map depicting the Site.
25

26 **XXI. PUBLIC COMMENT**


27 42. This Agreement shall be subject to a thirty-day public comment period, after
28

1 which EPA may modify or withdraw its consent to this Agreement if comments received
2 disclose facts or considerations indicating that this Agreement is inappropriate, improper, or
3 inadequate.

4 IT IS SO AGREED:

5 Kelly Development LLC

6
7 By


Mark Fleischauer, Vice President
Kelly Development LLC
200 Grand Boulevard
Vancouver, Washington 98661

Date:

July 11, 2003

1 United States Environmental Protection Agency

2
3 By


L. John Iani

Date:

Aug. 9, 2003

4 Regional Administrator, Region X
5 United States Environmental Protection Agency
6 1200 Sixth Avenue
7 Seattle, Washington 98101
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**In Re: Frontier Hard Chrome Site
Agreement and Covenant Not to Sue
Kelly Development LLC**

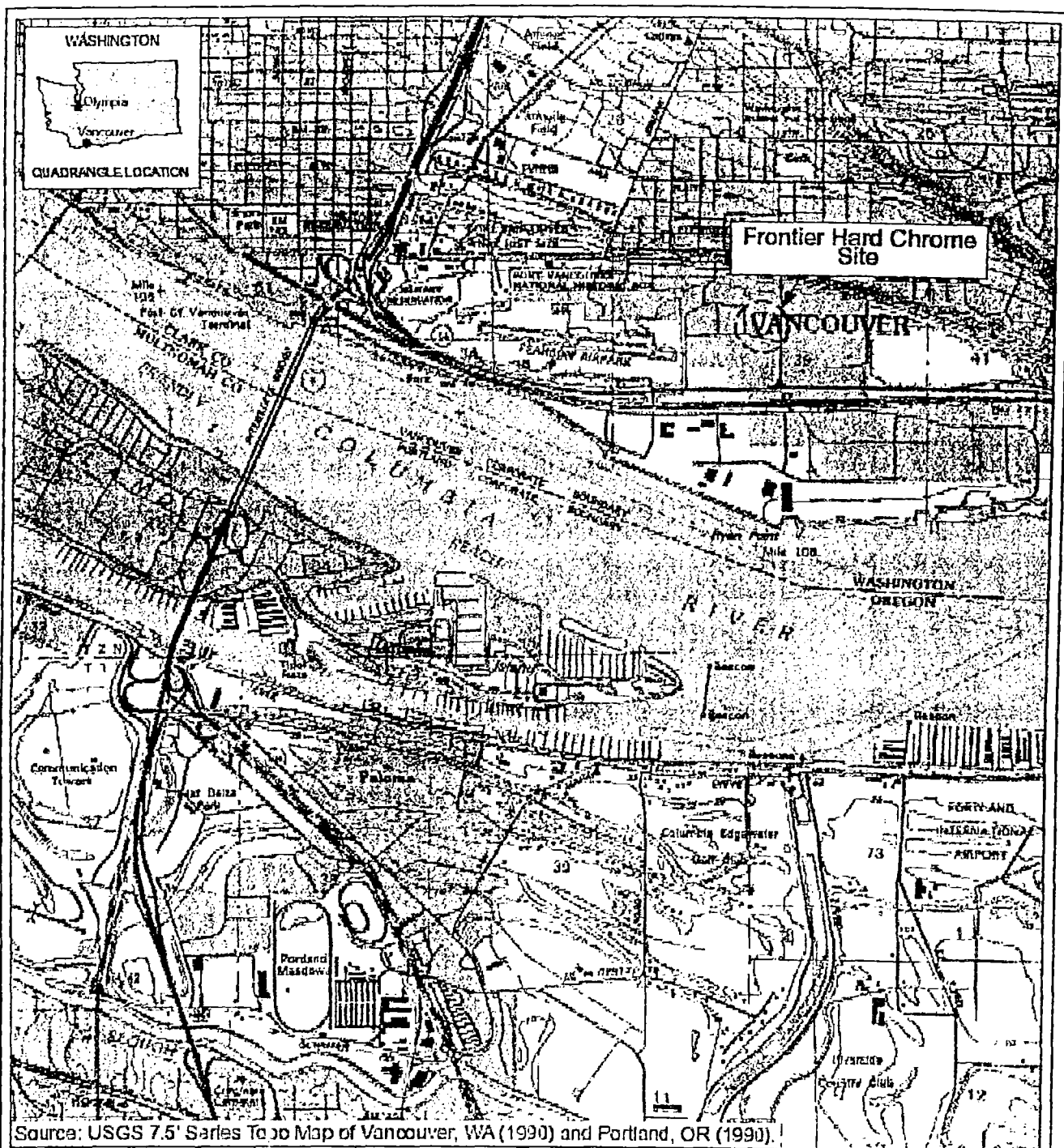
**Appendix 1
Institutional Controls**

Settling Respondent shall comply with the following institutional controls at the Frontier Hard Chrome Superfund Site:

- (1) No installation of groundwater or dry wells on Site, exclusive of any storm water treatment and/or detention ponds required by regulatory bodies.
- (2) No use of groundwater from the Site.
- (3) Soil that is to be excavated for use or disposal off-Site must first be tested for hexavalent chromium and trivalent chromium. The use or disposal of such soil must comply with State and Federal regulations. EPA must be consulted prior to such excavation.
- (4) Soil that is to be excavated for use or storage on-Site must first be tested for hexavalent chromium and trivalent chromium. The use or storage of such soil must comply with State and Federal regulations. EPA must be consulted prior to such excavation.
- (5) The controls outlined in (3) and (4) above shall not apply to shallow trenching conducted for purposes of installing utilities, footings, etc., when soils from such activities are returned to their original locations. Settling Respondent shall provide EPA with a diagram of proposed trenching activities prior to excavation.
- (6) Any disturbance of soil at the Site must be undertaken in a manner that prevents human exposure to any hazardous substances contained in the soil.
- (7) Any of the above institutional controls may be waived in writing by EPA should EPA determine that there may otherwise be a potentially acceptable level of risk of exposure to hazardous substances absent the particular institutional control.

**In Re: Frontier Hard Chrome Site
Agreement and Covenant Not to Sue
Kelly Development LLC**

**Appendix 2
Site Maps**



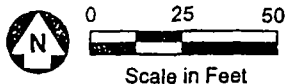
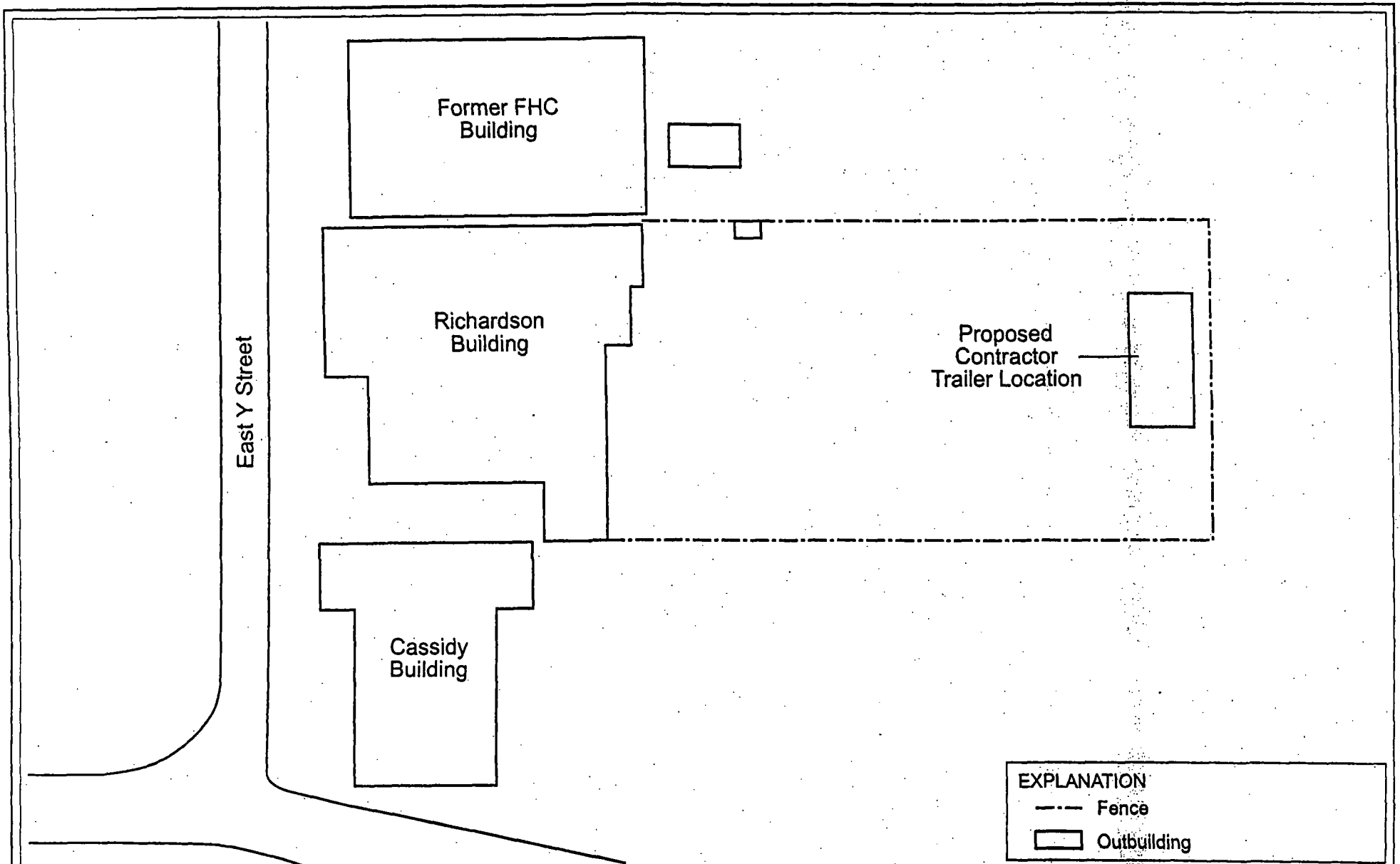
Frontier Hard Chrome—Vancouver, Washington Vicinity Map

0 1000 2000
Scale in Feet

WESTON
INCORPORATED

Figure

1-1



WESTON
MANAGERS DESIGNERS/CONSULTANTS

Frontier Hard Chrome—Vancouver, Washington Site Diagram

Figure

1-2

Concurrence for Frontier Hard Chrome Kelly Prospective Purchaser Agreement

| CONCURRENCES | | | | | | |
|--------------|---------|----------|---------|---------|--|--|
| Initials: | SLB | gll | Q | MTA | | |
| Name: | Byrne | Kowalski | Croxton | Reisner | | |
| Date: | 7/29/03 | 7/29/03 | 7/29/03 | 7/29/03 | | |